HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25622 OF 2007

Dated:04.12.2007

Between:

M/s. Singareni Collieries Co. Limited,
Kothagudem, Khammam District,
Rep., by its Deputy General Manager (F&A)
M. Narasimha Reddy.

..Petitioner

And

1. The Assistant Commissioner (CT)
   LTU-II, Warangal and another.

..Respondent.

-

-

-

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25622 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to quash the order of the 2nd respondent dated 18.10.2007 in Appeal No.B/85/07-08 as illegal and arbitrary and to set aside the notice of the 1st respondent dated 26.11.2007 demanding payment of balance of disputed tax for the tax period from April, 2005 to March, 2006, pending disposal of the appeal before the 2nd respondent in Appeal No.B/85/07-08.

The main grievance of the petitioner is that aggrieved by the assessment order passed by the 1st respondent, an appeal has been preferred before the 2nd respondent and along with the appeal, an application seeking stay of collection of disputed tax was filed. But the said application was rejected by the 2nd respondent on 18.10.2007. Taking advantage of the same, the 1st respondent issued notice, dated 26.11.2007 demanding the balance disputed tax. Aggrieved by the same, the present writ petition has been preferred.

Heard the learned Counsel appearing for the petitioner and the learned Government Pleader for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that

an appeal is pending before the 2nd respondent as to the assessment of disputed tax and in such a situation, rejection of stay application is unjustified and that if the relief as to the stay of the proceedings is not entertained and if the recovery of the disputed tax in question is effected during the pendency of the appeal before the 2nd respondent, the very purpose of filing the said appeal, which is a statutory remedy that is available to the aggrieved party, would be defeated.

In the facts and circumstances of the case and in view of the pendency of the appeal before the 2nd respondent, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to imposition of certain conditions. Accordingly, there shall be stay of recovery of disputed tax till the disposal of the appeal pending before the 2nd respondent subject to the condition of the petitioner depositing 50% of the disputed tax within a period of eight (8) weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

_____

Justice T. Meena Kumari

_____

Justice G. Rohini

Date: 4th December, 2007
Note:
Wire at party costs
(BO)
Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25622 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

04/12/2007